

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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EDSON R. ARNEAULT, KATHLEEN DEVLIN AND
JAMES DEVLIN, J. STEVEN EMERSON,
EMERSON PARTNERS, J. STEVEN EMERSON ROTH
IRA, STEVEN ROTHSTEIN, and BARRY STARK
AND IRENE STARK

C.A. No. 1:16-cv-00989-LPS

Plaintiffs

-against-

DIAMONDHEAD CASINO CORPORTION

Defendant.

-----X

CONSENT JUDGMENT

Plaintiffs commenced this action on or about October 25, 2016, to recover monies due and owing to them by Defendant under and pursuant to certain Collateralized Convertible Senior Debentures. Following several years of motion practice, this Court directed the parties to a non-binding mediation conference conducted by Magistrate Judge Christopher J. Burke, which resulting in the parties reaching a settlement. The parties entered into a settlement agreement effective as of December 8, 2019 (the "Settlement Agreement"). While the Settlement Agreement was not filed with this Court, the parties filed a Stipulation of Voluntary Dismissal with Prejudice (ECF Document No. 67) as required under the Settlement Agreement, which provided that this Court "shall maintain continuing jurisdiction over the Settlement Agreement."

The Settlement Agreement also provided that the Defendant would seek to sell certain real property described in the Settlement Agreement and would pay the Plaintiffs all principal and interest owed on or before December 31, 2021. The Settlement Agreement provided that if payment was not made by such date the Plaintiffs would be entitled to judgment.

Following December 31, 2021, when the property was not sold, Defendant approached counsel for Plaintiffs requesting an additional extension. The parties then entered into an Amendment to Settlement Agreement dated and effective as of April 1, 2022 (the "Amendment"). The Amendment provided that Plaintiff would have until March 31, 2023 to pay the Plaintiffs herein (and the plaintiff in a companion Delaware state court action and subject to the same Settlement Agreement) upon modified terms as more fully described in the Amendment.

The Amendment provided, in part, that if the Plaintiffs were not paid in full by March 31, 2023, this Consent Judgment would be filed.

The Defendant has failed to make payment to the Plaintiffs as required under the Amendment. Accordingly, Plaintiffs and Defendant request that this Court enter this Consent Judgment. The parties have agreed to resolve this case without further litigation. The Defendant waives service of any further proceedings in this matter and consents to the entry of this Consent Judgment against it by this Court upon the terms set forth below.

FINDINGS

- A. This Court has jurisdiction over the parties and the subject matter of this action
- B. Plaintiffs and Defendant agree to entry of this Order to settle and resolve all matters in this dispute arising from the conduct alleged in the Complaint through the date this Order is entered.
- C. Defendant neither admits nor denies any allegations in the Complaint except as specifically stated in this Order. For the purposes of this Order, Defendant admits the facts necessary to establish the Court's jurisdiction over it and the subject matter of this action.

- D. The parties entered into the Settlement Agreement effective as of December 8, 2019.
- E. The parties entered into an Amendment to the Settlement Agreement effective as of April 1, 2022.
- F. The Defendant is in default of its payment obligations under the Settlement Agreement and Amendment to the Settlement Agreement and entry of Judgment has been agreed to by the parties.
- G. Defendant waives any right to seek judicial review or otherwise challenge or contest the validity of this Order.
- H. The Plaintiffs are entitled to their attorneys' fees and costs as provided for in the Amendment to the Settlement Agreement.

ORDER

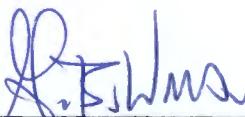
- 1. Plaintiffs shall have judgment against the Defendant in the principal amount of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000); together with interest thereon at the rate of Four Percent (4%) per annum for the period from January 1, 2015 through December 31, 2019 in the amount of THREE HUNDRED THOUSAND DOLLARS (\$300,000); plus interest on the principal amount at the rate of Six Percent (6%) per annum for the period from January 1, 2020 through March 31, 2022 in the amount of ONE HUNDRED TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$112,500); plus interest on the principal amount at the rate of Eight Percent (8%) per annum for the period from April 1, 2022 through the date of payment to each Plaintiff (in place of any statutory post judgment rate of interest). No post-judgment interest shall be

calculated as interest upon interest (e.g. post-judgment interest shall only apply to the \$1,500,000 principal amount and not to any interest thereon).

2. The Judgment shall also include the amount of ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$175,000) as and for Plaintiffs' attorneys' fees and costs, however no post-judgment interest shall apply to these attorneys' fees and costs.
3. In the event Defendant has submitted any objection to the entry of this Consent Judgment and such objection is overruled by this Court, in whole or in part, Plaintiffs are entitled to their reasonable attorneys' fees and costs incurred in connection with such objection in an amount to be determined by this Court following Plaintiffs' submission of a sworn statement setting forth such attorneys' fees and costs and any briefs filed in support of or in opposition to said fees and costs
4. This Court shall retain jurisdiction of this matter for purposes of construction, modification and enforcement of this Order.

IT IS SO ORDERED.

Dated: September 29, 2023



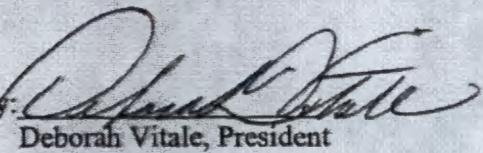
UNITED STATES DISTRICT JUDGE

(PARTIES CONSENTS FOLLOW)

Consented and agreed to:

DEFENDANT:

Diamondhead Casino Corporation

By: 
Deborah Vitale, President

PLAINTIFFS:

Edson Arneault

J. Steven Emerson on behalf of himself, as successor to the J. Steven Emerson Roth IRA and Emerson Partners

Kathleen Devlin

J. Steven Emerson

James Devlin

Barry Stark

Steven Rothstein

Irene Stark

Argonaut 2000 Partners, L.P.

By: _____
John Hawley, Authorized Signatory

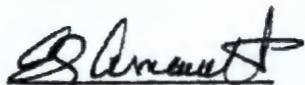
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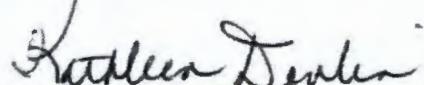
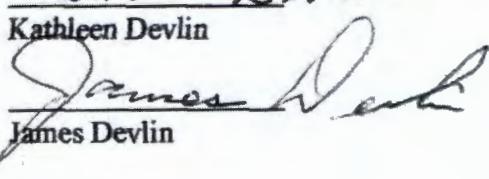
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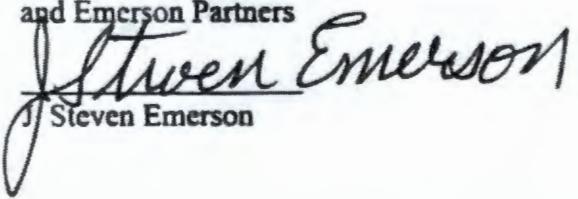
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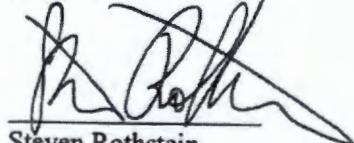
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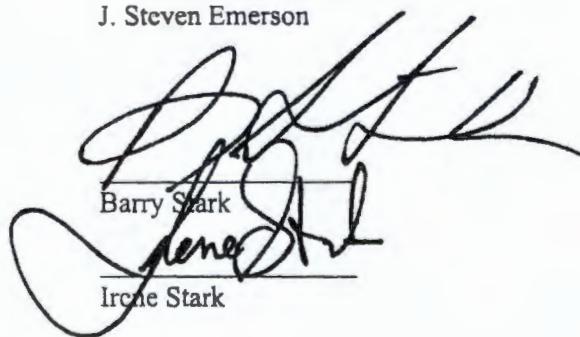
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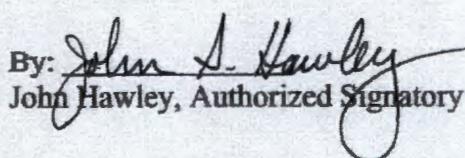
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